

BILL ANALYSIS

Senate Research Center

H.B. 1225
By: Eissler (Williams)
Education
5/9/2003
Engrossed

DIGEST AND PURPOSE

Under current law, there are no provisions regarding special education claims and requirements relating to the time limit a claim may be filed after an alleged violation. The Texas Education Agency (TEA) implemented new regulations regarding special education claims, including requirements that claims relating to special education be brought within one year of the date the complaining party knew or should have known of the alleged violation and that any appeals of decisions of special education hearing officers be brought within 90 days of the decision. However, opponents filed suit against TEA which resulted in a Travis County district court order holding that the one-year statute of limitations is constitutional, but the 90-day period to file an appeal is not. H.B. 1225 provides statutory time limits for a parent or a public education agency to request a special education due process hearing and to file a judicial appeal of a special education hearing officer's decision. The purpose of the bill is to provide a one-year statute of limitations for special education claims in order to bring finality to conflicts or potential conflicts between schools and parents.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.0165, as follows:

Sec. 29.0165. TRANSFER OF SPECIAL EDUCATION DUE PROCESS HEARING FUNCTIONS TO STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) Provides that not later than December 1, 2003, the agency and the State Office of Administrative Hearings (SOAH) must jointly determine whether it would be cost-effective for TEA to transfer all or part of the agency's special education due process hearings functions under Section 29.016 to SOAH by interagency contract.

(b) Provides that if, in accordance with Subsection (a), TEA and SOAH jointly determine that it would be cost-effective for TEA to transfer all or part of the agency's special education due process hearings functions under Section 29.016 to SOAH, TEA and SOAH must enter into an interagency contract to transfer the appropriate functions accordingly.

(c) Requires an interagency contract entered into under Subsection (b) to specify that TEA retains the authority to issue an order or decision authorizing an evaluation of a student's eligibility for special education services based on a proposed decision of SOAH. Prohibits an interagency contract under this section from transferring to the SOAH the authority to issue an order or decision authorizing the evaluation of a student.

SECTION 2. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.018, as follows:

Sec. 29.018. TIME LIMITS AND NOTICE RELATED TO IMPARTIAL DUE PROCESS HEARING REQUESTS AND APPEALS. (a) Requires a person, except as otherwise provided by this subsection, to request a special education impartial due process hearing under 20 U.S.C. Section 1415, and its subsequent amendments, not later than the first anniversary of the date on which the person knew or should have known of the alleged failure or refusal to provide to a child with a disability a free appropriate public education in accordance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), and its subsequent amendments, including any failure or refusal to identify, evaluate, or properly place the child. Provides that this subsection does not prohibit a hearing involving an alleged failure or refusal that initially occurred not more than two years before the request for a hearing if the hearing officer determines that the failure or refusal continued to occur during the year preceding the request.

(b) Requires a school district to provide a child's parent written notice of the time limit for requesting a special education impartial due process hearing under Subsection (a) if certain conditions are met.

(c) Requires the notice provided by a school district to a child's parent under Subsection (b) to include, in addition to notice of the time limit, certain information.

(d) Requires a person to initiate a civil action to appeal a decision of a hearing officer in a special education impartial due process hearing under 20 U.S.C. Section 1415, and its subsequent amendments, not later than the 180th day after the date on which the hearing officer issues a written decision.

SECTION 3. (a) Makes application of Section 29.018, Education Code, as added by this Act, prospective.

(b) Provides that a special education impartial due process hearing or an appeal of a hearing officer's decision related to an action that occurs before September 1, 2003, is governed by the law in effect when the action occurred, and the former law is continued in effect for that purpose.

SECTION 4. Effective date: September 1, 2003.